THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

-

WRIT PETITION NO.21031 OF 2006

Dated: 02.11.2007

Between:

1. The Director of Town and Country Planning
   A.P., Hyderabad and another

..Petitioners

And

G. Radhakrishna

.. Respondent.

-
-
-
-
-
-

-
-
-

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

-

WRIT PETITION NO.21031 OF 2006

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioners challenging the order of the tribunal in O.A.No.5340 of 2001, dated 11.8.2005.

The respondent herein is the applicant before the Tribunal. Originally, he filed the O.A. seeking to quash the Departmental proceedings in Roc.No.17359/93/M2, dated 18.11.1993 issued by the 2nd respondent.

The tribunal having observed that as per the Government Pleader, the enquiry is pending against the applicant till now i.e., 2005 and the period from the date of charge memo and the current year 2005, is more than 11 years and a couple of months and as per the guidelines laid down by the Apex Court in State of A.P. V. N. Radha Krishna[1] , the consequences of inordinate delay in respect of the charge memo not being enquired into for more than 10 years stale have been considered and finally quashed, allowed the O.A. quashing the charge memo. Having aggrieved by the same, the present writ petition has been preferred by the Government.

Heard the learned Government Pleader and the learned Counsel appearing for the respondent-applicant.

The learned Government Pleader contended that the enquiry officer has stated by his letter dated 16.8.2005 that he was unable to obtain any files or information from the Hindupur Municipality and due to non-availability of files or information, it is difficult to give any report on the case. It is further contended that the issue of disciplinary action against the individual is

continuously under process at various stages and it is under examination of the department for offering remarks as it involved Technical scrutiny and the time taken in this matter is only on administrative grounds as certain files related to the case are with the Commissioner, Hindupur Municipality and the delay is not intentional and that by virtue of prolonged disciplinary proceedings with a reasonable cause, no prejudice was caused to the applicant and there is settled law that unless a prejudice is caused to the delinquent, a mere delay in concluding the departmental proceedings will not vitiate the proceedings and therefore, the tribunal is not justified in quashing the proceedings in question and hence, the order impugned is liable to be set aside.

On the other hand, the learned Counsel appearing for the respondent-applicant contended that way back in the year 1993 for the irregularities alleged to have been committed in the year 1985, the applicant was served with a charge memo, but no final enquiry has been conducted so far, as a result of which, he is being subjected to mental agony and the tribunal is justified in quashing the proceedings in question and the order of the tribunal needs no interference.

Heard and perused the material available on record.

On a perusal of the material available on record, it is apparent that the enquiry officer is unable to obtain any files and information due to non-availability of files. In view of the technical difficulties in completing the enquiry and in view of the nature of the charges levelled against the respondent-applicant and in view of the fact that the enquiry officer expressed his inability as to the availability of information in relation to the charges levelled against the respondent-applicant, it is just and proper to grant liberty to the department to proceed with the enquiry proceedings within the stipulated period that would be fixed by this Court.

In this view of the matter, we feel it appropriate to modify the order of

the tribunal to the effect that the department shall complete the enquiry, within three months from the date of receipt of a copy of this order, basing on the records available, in default, the order of the tribunal shall become operative.

With the above modification, the writ petition is disposed of. No order as to costs.

_____
Justice T. Meena Kumari

_____
Justice G.Chandraiah

Date: 2.11.2007
Nn/Gurc

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

-

-

-

-

-

-

-

-

-

-

-

WRIT PETITION NO.21031 OF 2006

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

-

-

-

-

-

-

-

Dated:2.11.2007

---

[1] AIR 1998 SC 1833